



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Federal Information Technologies, Inc.

File: B-240855

Date: September 20, 1990

Howard S. Kossoy for the protester.
Charles A. Walden, Esq., Defense Communications Agency, for the agency.
Ralph O. White, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Fifth ranked offeror, with highest evaluated cost, is not an interested party to question highest ranked offeror's eligibility for award since protester would not be in line for award even if the issues raised were resolved in its favor.

DECISION

Federal Information Technologies, Inc. (FIT) protests the award of a contract to I-NET, Inc. under request for proposals (RFP) No. DCA100-89-R-0023, issued as a small business set-aside by the Defense Communications Agency (DCA). This solicitation is for the Joint Information Management System (JIMS), an automatic data processing (ADP) support system including installation of data communications systems, systems support, security evaluation of DCA's classified ADP network, and testing. FIT protests that I-NET's offer should have been rejected because I-NET allegedly could not meet the solicitation requirement that more than 50 percent of costs for personnel come from the offeror's own employees, and that the agency improperly abandoned the evaluation criteria set forth in the solicitation in reviewing the offer submitted by I-NET.

We dismiss the protest.

DCA contends that FIT lacks standing to challenge the award to I-NET because FIT is not in line for award even if its protest were sustained. Specifically, DCA provided detailed source-selection information showing that FIT's technical

proposal was ranked fifth among the six offerors, and that FIT had the highest evaluated cost. Thus, DNA argues that FIT is not an interested party to protest award to I-NET under our Bid Protest Regulations. See 4 C.F.R. § 21.0(a) (1990).

In a supplemental submission in response to DCA, FIT argues that we should disregard its technical ranking as meaningless, since the agency allegedly abandoned the stated evaluation scheme by giving excessive credit to I-NET for its subcontractor; that subcontractor, Computer Sciences Corporation (CSC), is the incumbent contractor but could not submit an offer in response to the solicitation because it does not qualify as a small business. FIT, in its supplemental submission, also challenged other facets of the evaluation, including the agency's review of FIT's best and final offer and the agency's review of indirect costs.

In essence, FIT's initial and supplemental challenges assert that DCA was biased in favor of I-NET's offer, which, according to FIT, relies heavily on subcontracting with CSC, the incumbent contractor. FIT claims DCA was biased because of the agency's satisfaction with CSC's past performance, and lingering resentment against the decision to set aside the instant procurement for small business, thus preventing CSC from submitting an offer in response to the RFP.

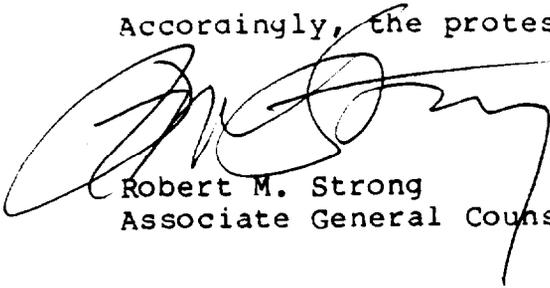
Under the Competition in Contracting Act of 1984 and our regulations, a protester must qualify as an interested party before its protest may be considered by our Office. See 31 U.S.C. § 3553 (1988); 4 C.F.R. § 21.1(a). That is, a protester must have a direct economic interest which would be affected by the award of a contract or the failure to award a contract. 31 U.S.C. § 3551(2); 4 C.F.R. § 21.0(a). Here, given FIT's technical ranking as the fifth of six offerors, and the nature of its protest, we do not find that FIT has the direct economic interest necessary to qualify as an interested party under our regulations. ISC Defense Sys., Inc., B-236597.2, Jan. 3, 1990, 90-1 CPD ¶ 8.

FIT's specific allegations--that the agency abandoned the evaluation scheme by giving undue weight to I-NET's selection of CSC as a major subcontractor, assured leveling of indirect costs, lowered evaluation scores for best and final offers that did not use the exact nomenclature expected, and ignored I-NET's inability to meet the solicitation restriction against using excessive levels of subcontract personnel--do not raise the likelihood that the relative standing of the offerors ranked between FIT and the awardee would change. In fact, in discussing the information received in its debriefing, FIT argues that

"[i]t is most likely that . . . [the other offerors] were judged against this undisclosed criterion for similar reasons in the same areas."

In our view, even if we assume that FIT is correct in its protest and can establish the improprieties claimed, each of the offerors between FIT and award would be similarly benefited because each of these companies are also injured by the agency's alleged improprieties. Since none of FIT's claims would affect the relative standing of the unsuccessful offerors, FIT would not be in line for contract award even if its protest were sustained. Thus, FIT lacks the direct economic interest necessary to be an interested party for purposes of pursuing a bid protest.

Accordingly, the protest is dismissed.



Robert M. Strong
Associate General Counsel